

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PETER FRANKL AND JOHN DECKARD, No. C07-80195 MISC MHP (EMC)

Plaintiffs,

v.

NETOPIA, INC., et al.,

Defendants.

**NOTICE OF REFERENCE AND ORDER  
RE DISCOVERY PROCEDURES**

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter has been referred to Magistrate Judge Edward M. Chen for all discovery matters. Please be advised that if a specific motion was filed before the District Court **prior to this referral**, the noticed date may no longer be in effect. All hearing dates are subject to the availability of Judge Chen's calendar. Please contact the Courtroom Deputy, Betty Fong, at (415) 522-2034, to confirm or, if necessary, reschedule the hearing date. **Regardless of whether the Court reschedules the hearing date, all opposition and reply papers shall be timely filed according to the originally noticed hearing date, pursuant to Civil L. R. 7-3.**

LAW AND MOTION PROCEDURES

Civil law and motion is heard on Wednesday mornings at 10:30 a.m., Courtroom C, 15th Floor, United States District Court, 450 Golden Gate Avenue, San Francisco, California 94102. Motions to compel may be noticed without reserving a hearing date, subject to the Court's availability. Discovery motions may be addressed to the Court in three ways. A motion may be noticed on not less than thirty-five (35) days notice pursuant to Civil L. R. 7-2. Alternatively, any

1 party may seek an order shortening time under Civil L. R. 6-3 if the circumstances justify that relief.  
2 In emergencies during discovery events, the Court is available pursuant to Civil L. R. 37-1(b). In  
3 the event a discovery dispute arises, counsel for the party seeking discovery shall in good faith  
4 confer **in person** with counsel for the party failing to make the discovery in an effort to resolve the  
5 dispute without court action, as required by Fed. R. Civ. P. 37 and Civil L. R. 37-1(a). The meeting  
6 must be **in person**, except where good cause is shown why a telephone meeting is adequate. A  
7 declaration setting forth these meet and confer efforts, and the final positions of each party, shall be  
8 included in the moving papers. The Court will not consider discovery motions unless the moving  
9 party has complied with Fed. R. Civ. P. 37 and Civil L. R. 37-1(a).

10 All filings of documents relating to motions referred to Magistrate Judge Chen shall list the  
11 civil case number and the District Court Judge's initials followed by the designation "(EMC)."

12 All documents shall be filed at the Clerk's Office in compliance with the Civil Local Rules.  
13 Documents not filed in compliance with those rules will not be considered by the Court.

14 At the time of filing of original papers with the clerk's office, the parties are required to  
15 submit two conformed copies of each document, one of which shall be designated "**EMC**  
16 **Chambers' Copy.**" The chambers' copy shall be submitted on 3-hole punched paper.

17 **In all "E-Filing" cases, when filing papers that require the Court to take any action**  
18 **(e.g. motions, meet and confer letters, administrative requests), the parties shall, in addition to**  
19 **filing papers electronically, lodge with chambers a printed copy of the papers on three-hole**  
20 **punch paper (including all exhibits) by the close of the next court day following the day the**  
21 **papers are filed electronically. These printed copies shall be marked "EMC Chambers Copy"**  
22 **and shall be submitted to the Clerk's Office in an envelope clearly marked with the case**  
23 **number, "Magistrate Judge Edward M. Chen," and "E-Filing Chambers Copy." Parties shall**  
24 **not file a paper copy of any document with the Clerk's Office that has already been filed**  
25 **electronically. A proposed order in an E-Filing case must be emailed to**  
26 **[emcpo@cand.uscourts.gov](mailto:emcpo@cand.uscourts.gov) as a Word Processing attachment on the same day that it is E-Filed.**

27 With permission, Chambers' copies of documents may be submitted on CD-ROM with hypertext  
28 links to exhibits.

1 In cases referred to Magistrate Judge Chen for discovery, if a party wishes to file a document  
2 under seal, that party shall first file a written request for a sealing order setting forth the good cause  
3 and accompanied by a proposed order, as provided by Civil L. R. 79-5.

4 Law and motion matters may be submitted without argument upon stipulation of the parties  
5 and notification of the Court no later than two (2) court days before the hearing. Pursuant to Civil L.  
6 R. 7-7(e), filed motions may be withdrawn without leave of the Court, within seven (7) days of the  
7 date for service of the opposition. Thereafter, leave of the Court must be sought.

8 **The failure of counsel or a party to abide by this Order may result in sanctions**  
9 **pursuant to Federal Rule of Civil Procedure 16(f).**

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11 IT IS SO ORDERED.

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13 Dated: August 20, 2007



14 EDWARD M. CHEN  
15 United States Magistrate Judge  
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